

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

74-1894

United States Court of Appeals

For the Second Circuit

THE UNITED STATES OF AMERICA,

Appellee,

v.

RAYMOND MARQUEZ,

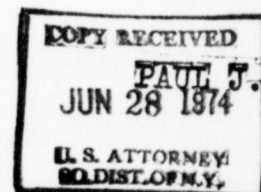
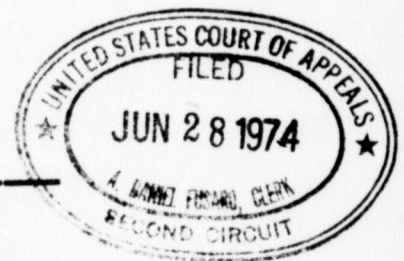
Defendant-Appellant.

*On Appeal From The United States District
Court For The Southern District of New York*

Appellant's Appendix

GOLDBERGER, FELDMAN & BREITBART
Attorneys for Defendant-Appellant
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New York, N. Y. 10003
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J. JEFFREY WEISENFELD
On the Brief



3

PAGINATION AS IN ORIGINAL COPY

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DOCKET ENTRIES
CRIMINAL DOCKET
UNITED STATES DISTRICT COURT

JUDGE EDELSTEIN

(3)

1a

69 CRIM. 420

D. C. Form No. 100 Rev.

TITLE OF CASE	(TOTAL - THREE COUNTS)
THE UNITED STATES	XXXXXX T. 18, U.S. Code, Sec. 2
vs.	& 1952 - Unlawfully traveling &
RAYMOND MARQUEZ Cts. 1 & 2	using interstate commerce facili-
RAYMONS MAS a/k/a Jimmy Mas - All cts.	ties including the mails to
ANIBAL CARRION a/k/a Big Al - Cts. 1 & 2	promote & carry on the unlawful
HERMAN HARRIS - Cts. 1 & 2	activity of gambling. (Ct. 1)
ALBERT ELMO PAYNE a/k/a Firpo- Cts 1 & 2	T. 18, U.S. Code, Sec. 371
HENRY FRAZIER - Cts. 1 & 2	Conspiring so to do. (ct. 2)
JANET BRANNIGAN - Cts. 1 & 2	XXXXXX

* - Docket sheet corrected 10/16/69.

* T. 18, Sec. 1953, U.S.C.
~~THREE COUNTS~~ Knowingly
carrying in interstate commerce
writings & devices for use in
bookmaking, wagering pools with
respect to sporting events,
numbers & similar games. (Ct. 3)

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 2 mailed ✓	Clerk	10-22-69	MARQUEZ	5	
J.S. 3 mailed 1- (Pocit 204)	Marshal	10-24-69	US TREAS		5
Violation	Docket fee	10-22-69	MAS	5	
		10-24-69	US TREAS		5
Title					
Complaint # 148919					
10-22 MARQUEZ \$10,000.00					
10-22 MAS \$5,000.00					

DATE	PROCEEDINGS
5-13-69	Filed Indictment. Ordered Sealed.
5-13-69	RAYMOND MARQUEZ-Bench warrant ordered. FRANKEL, J.
5-14-69	Indictment unsealed on oral application of A.U.S.A. Richard A. Givens. FRANKEL, J.
5-14-69	RAYMOND MARQUEZ-Brought to Court on warrant. PLEADING adjd to 5/20/69. Bail fixed at \$100,000 Personal Recognizance Bond to be secured by depositing \$5,000 Cash with the Clerk of the Court. Personal Recognizance Bond to be signed by 4 PM today. Deft paroled until 1 PM. 5/15/69 to post \$5,000 Cash with the Clerk of the Court. FRANKEL, J.
5-15-69	RAYMOND MARQUEZ-Filed notice of appearance for the deft by Albert J. Krieger by Theodore Krieger, 401 Broadway, N.Y.C. phone Wa 5-5937.
5-14-69	RAYMOND MARQUEZ: Filed personal recognizance bond in the sum of \$100,000.00 to be secured by deposition \$5,000.00 cash with the Clerk #M19-1-8248 dtd. 5-14-69

Cont'd on page 2 ---

DATE	PROCEEDINGS
5-20-69	RAYMOND MARQUEZ-Pleading adjd to 5-26-69 \$100,000 Personal Recognizance Bond fixed on 69 Cr. 315 to be rewritten to cover this indictment by 5-22-69. Motions Ret. 6-17-69 ANIBAL CARRION-Court directs entry of plea of NOT GUILTY. Bail of \$10,000 on 69 Cr. 315 to be rewritten to cover this indictment by 5-22-69. Motions Ret: 6-17-69. FRANKEL, J.
5-20-69	ALBERT ELMO PAYNE, HENRY FRAZIER & JANET BRANNIGAN-Each deft pleads NOT GUILTY bails of \$10,000. on 69 Cr. 315 to be rewritten to cover this indictment by 5-22-69. Motions Ret: 6-17-69. FRANKEL, J.
5-20-69	HENRY FRAZIER-Filed notice of appearance for the deft by Horrow D. Mushkid, 600 Old Country Road, Garden City N.Y.
5-20-69	JANET BRANNIGAN-Filed notice of appearance for the deft by Robert Burns, 150 Broadway N.Y.C. phone Wo 2-4156.
5-20-69	ALBERT ELMO PAYNE-Filed notice of appearance for the deft by Edwin Torres 3765 Broadway N.Y.C. phone Ad 4-0775.
MAY 20 1969	<i>Raymond Marquez</i> Filed Transcript of record of proceedings, dated 5-14-69
5-26-69	HENRY FRAZIER-Filed affdvt & notice of motion for relief such as demanded in the original notice of motion above referred to, & for an order. Ret 6-17-69.
5-20-69	RAYMOND MARQUEZ- Pleading adj'd to 5-26-69. \$100,000 personal recognizance bond fixed on 69 Cr. 315 to be rewritten to cover this indictment by 5-22-69. Motions ret. 6-17-69 ANIBAL CARRION- Ct. directs entry of plea of NOT GUILTY. Bail of \$10,000 on 69 Cr. 315 to be rewritten to cover this indictment by 5-22-69. Motions ret. 6-17-69. ALBERT ELMO PAYNE) Each deft. Pleads not guilty. Bails of \$10,000 on 69 Cr. 315 to HENRY FRAZIER) be rewritten to cover this indictment by 5-22-69. Motions ret. 6-17-69 JANET BRANNIGAN) FRANKEL, J.
5-27-69	RADAMAS MAS, Filed notice of appearance by Robert Kasanof, 52 Broadway, NYC WH 3-5380.
5-29-69	HERMAN HARRIS-Deft appears in Court with counsel & reaffirms PLEA OF NOT GUILTY. Bail continued. (\$10,000). Motions ret 6-24-69. FRANKEL, J.
5-26-69	RAYMOND MARQUEZ PLEADS NOT GUILTY Bail continued. (\$100,000 Personal Recognizance bond Motions Ret: 6-24-69. FRANKEL, J.
5-26-69	RADAMAS MAS-a/k/a Jimmy Mas-PLEADS NOT GUILTY Deft paroled until noon 5-27-69. to rewrite \$10,000 bail on indictment 69 Cr. 315 to cover this indictment. Motions Ret 6-24-69. HERMAN HARRIS-Court directs entry of PLEA OF NOT GUILTY. Deft paroled until noon of 5-27-69 to rewrite \$10,000 bail on indictment. Motions ret 6-24-69. adjd to 5-29-69 at which time deft is to appear with counsel. FRANKEL, J.
6-3-69	HERMAN HARRIS-Filed notice of appearance for the Deft by Arthur C. Muhlock, 21 East 40th Street, N.Y.C. phone 532-5700.
6-3-69	HERMAN HARRIS BENCH WARRANT ORDERED. PALMIERI, J.
5-26-69	RAYMOND MARQUEZ: Filed copy of Warrant for arrest dtd. 5-13-69 & returned executed on 5-

DATE	PROCEEDINGS
6-9-69	JANET BRANNIGAN: Filed pre-trial motion to suppress & for other relief. ret. 6-17-69
6-16-69	RADAMES MAS: Filed mt defts pre-trial motion directing the U.S. Atty to serve & file a Bill of Particulars stating with greater certainty & particularity. Ret. 6-24-69 & Memorandum in support of defts pre-trial motions ret: 6-24-69
6-17-69	RAYMOND MARQUEZ: Filed affdvt. & notice of motion for severance, inspect & copy etc. ret. 6-24-69
6-24-69	HERMAN HARRIS- Bench Warrant-Vacated PALMIERI, J.
7-1-69	RADAMES MAS: Filed reply affdvt of Robert Kananof, Atty for deft. in support of deft's motion for pre-trial motions, & answering memorandum in support of deft's Mas' pre-trial motions ret. 7-1-69
7-1-69	Filed REPLY affdvt. of HENRY FRAZIER
7-1-69	JANET BRANNIGAN: Filed memo endorsed on motion filed 6-9-69-Motion disposed of. See memo endorsed on motion of Raymond Marquez filed 6-17-69 in 69 Cr. 420 (mailed notice) PALMIERI, J.
7-1-69	RADAMES MAS: motion filed 6-30-69 pre-trial- motion disposed of. See memo endorsed on motion of Raymond Marquez filed 6-17-69 in 69 Cr.420 (mailed notice) PALMIERI, J.
7-1-69	RADAMES MAS: motion filed 6-16-69 for h/p, motion disposed of. See memo endorsed on motion of Raymond Marquez filed 6-17-69 in 69 Cr. 420 (mailed notice) PALMIERI, J.
7-1-69	RAYMOND MARQUEZ: motion filed 5-26-69, motion disposed of. See memo endorsed on motion of Raymond Marquez filed 6-17-69 in 69 Cr. 420 (mailed notice) PALMIERI, J.
7-2-69	Filed affdvt of A. Givens, Asst. U.S. Atty in opposition to motions of defts. RAYMOND MARQUEZ:
7-1-69	/Filed memo endorsed on motion filed 6-17-69- The motions of all defts. in this case including motions addressed to 69 Cr. 315 and deemed applicable to 69 Cr. 420 were heard by argument or submission on 7-1-69 are denied & granted as indicated etc. (mailed notice) PALMIERI, J.
7-1-69	Filed Government's memorandum in response to defts' motions.
7-1-69	Filed Government's supplemental memorandum in response to deft Mas' memorandum in support of his pre-trial motions.
7-29-69	RAYMOND MARQUEZ-Filed affdvt & notice of motion for return of currency.Motion Ret: 8-12-69.
8-12-69	ANIBAL CARRION-Filed affdvt & Order It is ordered that the bail limits of the deft be & are hereby extended to include the region of Anaheim, California, & the necessary areas for travel between New York & Anaheim, Calif from August 17 to August 27, 1969. (sent notice) PALMIERI, J.
	-OVER-
	X
	X
	X

DATE	PROCEEDINGS
8-20-69	RAYMOND MARQUEZ - Filed Memorandum endorsed on motion, filed 7/29/69: " Motion withdrawn with prejudice and after a finding by the Court that applicant Dominick Marcone was in default in failing to appear for hearing scheduled for 10:30 A.M., August 20, 1969. See minutes of August 20, 1969. PALMIERI, J. 8/20/69. (Mailed notice)
8-20-69	Filed same endorsed on motion filed 7-29-69. Motion withdrawn with prejudice and after a finding by the Court that applicant DOMINICK J. MARCONE was in default in failing to appear for hearing scheduled for 10:30 A.M. August 20, 1969. See minutes of August 20, 1969. (mailed notice) (error-see entry above) PALMIERI, J.
8-27-69	ANIBAL CARRION- Filed commissioner's record of proceedings dtd. 10-3-68, appearance bond in the sum of \$10,000.00 by George A. Morris, Jr. Harvey Bonding Agency Newark, N.J. dtd. 9-5-68, order specifying methods and conditions of release dtd. 9-5-68 (filed in 69 Cr. 315)
9-2-69	RAYMOND MARQUEZ (atty present) RADAMES MAS) Deft. MAS's motion to suppress DENIED. Trial set for Thursday Sept. 4, 1969 Room 2204 at 10:00 AM
9-4-69	RAYMOND MARQUEZ) Before MANSFIELD, J- JURY TRIAL BEGUN (all atty's present) RADAMES MAS)
9-5-69	Trial continued- Deft. MARQUEZ motion to suppress - DENIED
9-8-69	Trial continued- Both deft's motion to dismiss- Dec. Reserved.
9-9-69	Trial continued- Both Deft's motion to dismiss renewed- DENIED
9-10-69	Trial continued & concluded as to deft. MAS, Jury verdict * GUILTY on all three counts (cts. 1, 2 & 3) No decision as to deft. MARQUEZ, Trial continued as to MARQUEZ on Thursday Sept. 11, 1969. Bail continued. Hearing set for Sept. 30, 1969. Probation report report ordered for 10-22-69. Deft. Mas sentence on 10-22-69.
9-11-69	Trial continued as to Deft. MARQUEZ- Jury returned with a verdict of GUILTY on count 2 only, (deft. reserves his motions to day of sentence, 10-22-69) Probation report ordered for 10-22-69. Court declares a MISTRIAL on count 1. Bail continued. MANSFIELD, J.
9-20-69	RAYMOND MARQUEZ & RADAMES MAS-(atty present) Hearing begun before MANSFIELD, J. on motion to suppress. MANSFIELD, J.
10-01-69	RAYMOND MARQUEZ & RADAMES MAS-Hearing continued & concluded. DECISION RESERVED. MANSFIELD, J.
10-15-69	RAYMOND MARQUEZ) Filed Government's affdvt concerning sentence of defts. RADAMES MAS)
10-22-69	RAYMOND MARQUEZ) Filed Judgment-Deft Sentenced (atty present) It is adjudged that the RADAMES MAS) deft is hereby committed to the custody of the Atty General or his authorized representative for imprisonment for a period of FIVE(5) YEARS on count 2 AND FINED \$10,000.00 The fine on count 2 is to be paid or the defendant is to stand committed until the fine is paid or he is otherwise discharged according to law. It is further Ordered that the deft is to pay the cost of prosecution against him in this case. The defendan

Cont'd on page 5 --

DATE	PROCEEDINGS
	is continued on his present bail until he posts bail pending appeal in the sum of \$100,000.00; the bond pending appeal is to be a personal recognizance bond in the amount of \$100,000.00, to be secured by depositing \$5,000.00 cash with the Clerk of this Court. MANFIELD, J.
10-22-69	Issued commitment & copies. 70,316
10-22-69	RADAMES MAS, a/k/a "Jimmy Mas" / Filed Judgment-Deft Sentenced (atty present) It is adjudged that the defendant is hereby committed to the custody of the Atty General or his authorized representative for a period of THREE(3) YEARS, on each of counts 1,2,&3. to run concurrently with each other - AND - FINED \$5,000.00 to cover counts 1,2,&3. The defendant is to stand committed until the total fine of \$5,000.00 is paid or he is otherwise discharged according to law. Bail pending appeal is fixed in the sum of \$10,000.00. The defendant is continued on his present bail until the bail pending appeal is posted. MANFIELD, J.
10-22-69	Issued commitment & copies.
10-22-69	RADAMES MAS: Filed notice of appeal to the USCA from Judgment of 10-22-69 \$5.00 Pd. (notice received by U.S. Atty)
10-22-69	RAYMOND MARQUEZ: Filed notice of appeal to the USCA from Judg. of 10-22-69 \$5.00 Pd. (notice received by U.S. Atty)
10-23-69	RAYMOND MARQUES) RADAMES MAS) Filed Transcript of record of proceedings, dated 9-10-69
10-23-69	RAYMOND MARQUES) RADAMES MAS) Filed Transcript of record of proceedings, dated 9-23-69 / 10-1-69
11-10-69	RAYMOND MARQUEZ & RADAMES MAS-Filed the record on appeal in the above proceedings has been certified & transmitted to the U.S.C.A. second circuit. 11-10-69.
NOV 20 1969	Filed Transcript of record of proceedings, dated 10-22-69
NOV 21 1969	Filed Transcript of record of proceedings, dated 9-8-7-10-69
Dec 15-69	RAYMOND MARQUEZ: On Government's application Deft. Marquez remanded (no bail) Mansfield, J. 4-2-70 Deft. currently in error. Deft. currently in error. Marshal for service of sentence.
12-18-69	The supplemental record on appeal in the above entitled proceeding has been certified and transmitted to U.S.C.A. for the Second Circuit 18 day of Dec. 1969
1-21-70	ANIBAL CARRION- Filed affdvt. & notice of motion to dismiss indictment ret. 2-3-70
1-27-70	Filed Transcript of record of proceedings, dated 9-4-5-1969
2-24-70	ANIBAL CARRION: Filed affdvt & notice of motion to dismiss the indictment & memo endorsed- Motion withdrawn in open court upon representation of prosecution that a nolle prosequi as to moving deft. under this indictment will be filed so ordered TYLER, J.
3-4-70	ANIBAL CARRION: Filed consent & Order that the bond posted by or on behalf of deft. in the above entitled action be and hereby is exonerated. TYLER, J.

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DATE	PROCEEDINGS
3-19-70	RAYMOND MARQUEZ-Filed remand dated 12-15-69 - This remand issued in error since deft. was already sentenced & serving time on this indictment
3-20-70	RADAMAS MAS - Filed Appearance bond, dtd 5-20-69, Stuyvesant Ins. amt. \$10,000.00 (Bishopp) Filed in 69 Cr. 315
3-20-70	HENRY FRAZIER - Filed appearance bond, dtd 5-22-69, Stuyvesant Ins. amt \$10,000.00 (Bishopp) Filed in 69 Cr. 315
3-20-70	JANET BRANNIGAN - Filed appearance bond, dtd 5-22-69, Stuyvesant Ins. amt \$10,000.00 (Bishopp) Filed in 69 Cr. 315
3-20-70	HERMAN HARRIS - Filed appearance bond, dtd 5-22-69, Stuyvesant Ins., amt \$10,000.00 (Bishopp) Filed in 69 Cr. 315
3-20-70	ALBERT PAYNE - Filed appearance bond, dtd 5-22-69, Stuyvesant Ins., amt. \$10,000.00 (Bishopp) Filed in 69 Cr. 315
4-9-70	HERMAN HARRIS; Filed order and affidavit for enlargement of bail limits to Jamaica, West Indies, and San Juan. Puerto Rico. Signed by Judge Ryan dtd. 4-9-70
4-13-70	ANIBAL CARRION - HENRY FRAZIER & JANET BRANNIGAN
4-13-70	Filed Nolle Prosequi- Leave to file the within nolle Prosequi is granted. TYLER, J.
5-26-70	RADAMAS MAS - Deft. surrenders to U.S. Marshal for service of sentence.
6/17/70	Filed affdvt. and Gov'ts. Notice of Motion to require the defendant A. E. Payne to furnish handwriting sample - Ret. 6/26/70 in rm. 2704 (Sent to T. E. J.)
6/17/70	Filed Gov'ts. Memorandum of Law in support of above motion (T. E. J.)
6-30-70.	Docketed memo. endorsed dated 6/26/70 on Government's motion dated 6/17/70. Re: Motion granted upon consent of defendant in person, accompanied by counsel at the hearing today. Order attached. TYLER, J.
7-20-70	R. MAS - Filed Comm. ... Order to Detention Hdqrs 1
11-5-70	Filed Transcript of record of proceedings, dated 12-15-69
11-6-70.	U.S. Supreme Court Order- Filed true copy of USCA dated 10-12-70. Judgment entered 11/6/70. John Livingston, Clerk
11-6-70	RAYMOND MARQUEZ & RADAMAS MAS- Filed (opinion) judgment of the U.S.C.A. dated 4-7-70 affirming the judgment of the Dist. court. (judgment entered 11-6-70)
12-30-70	RAYMOND MARQUEZ-Filed order dismissing count 1 of indictment. MANSFIELD, J.
1-12-71	ALBERT ELMO PAYNE a/k/a FIRPO & HERMAN HARRIS - Entered and filed nolle prosequi. TYLER, J.
2-4-71	RAYMOND MARQUEZ- Filed affdvt and notice of motion for a modification of sentence.
2-8-71	RADAMES MAS - Filed affdvt. and notice of motion for a modification of sentence. (Mansfield)

D. C. 109 Criminal Continuation Sheet

INDICTMENT

8a

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x

UNITED STATES OF AMERICA :

-v- :

70 Cr.

RAYMOND MARQUEZ, a/k/a "Spanish Raymond", :

ANTHONY ANGELET and

PEDRO RIVERA, a/k/a "Pete Russo", :

Defendants. :

----- x

The Grand Jury charges:

From on or about the 7th day of December, 1969, up to and including the 11th day of December, 1969, in the Southern District of New York, RAYMOND MARQUEZ, a/k/a "Spanish Raymond", ANTHONY ANGELET and PEDRO RIVERA, a/k/a "Pete Russo", the defendants, unlawfully, wilfully and knowingly, and with intent to distribute the proceeds of an unlawful activity, to wit, gambling in violation of the laws of the State of New York, viz., New York Penal Law Article 225, did cause one Juan Monserrate to travel in interstate and foreign commerce between New York City and Puerto Rico⁷ and thereafter did cause said Juan Monserrate

INDICTMENT

to distribute and attempt to distribute said pro

(Title 18, United States Code, Sections 1952 and 2

SECOND COUNT

The Grand Jury further charges:

From on or about the 7th day of December, 1969, up to and including the 11th day of December, 1969, in the Southern District of New York, RAYMOND MARQUEZ, a/k/a "Spanish Raymond", ANTHONY ANGELET and PEDRO RIVERA, a/k/a "Pete Russo", the defendants, unlawfully, wilfully and knowingly, and with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of an unlawful activity, to wit, extortion, in violation of the laws of the State of New York, viz., New York Penal Law Article 155, did cause one Juan Monserrate to travel in interstate and foreign commerce between New York City and Puerto Rico and thereafter did promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of such unlawful activity.

(Title 18, United States Code, Sections 1952 and 2.

THIRD COUNT

The Grand Jury further charges:

1. From on or about the 7th day of December, 1969, up to and including the 11th day of December, 1969, in the Southern District of New York, and elsewhere, RAYMOND MARQUEZ, a/k/a "Spanish Raymond", ANTHONY ANGELET and PEDRO RIVERA, a/k/a "Pete Russo", the defendants, and Anibal Carrion, a/k/a "Big Al", named herein as a co-conspirator and not a defendant, unlawfully, wilfully and knowingly did combine, conspire, confederate and agree together and with each other to commit offenses against the United States, to wit, to violate Title 18, United States Code, Section 1952.

2. It was part of said conspiracy that the said defendants and co-conspirator, with intent to distribute the proceeds of an unlawful activity, to wit, gambling in violation of the laws of the State of New York, viz., New York Penal Law Article 225, and with intent, further, to promote, manage, establish, carry on of an unlawful activity, to wit, extortion, in violation of the laws of the State of New York, viz., New York Penal

Law Article 155, would cause one Juan Monserrate to travel in interstate and foreign commerce between New York City and Puerto Rico, and thereafter would cause said Juan Monserrate to perform and attempt to perform the distribution of the proceeds of the unlawful activity of gambling and further would perform and attempt to perform the promotion, management, establishment and carrying on of the unlawful activity of extortion.

OVERT ACTS

In furtherance of said conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York:

1. On or about December 8, 1969, all of the defendants met at Charlie's Gogo restaurant on 8th Avenue, between 112 and 113 Streets, New York, New York.

2. On or about December 11, 1969, the defendants RAYMOND MARQUEZ, a/k/a "Spanish Raymond" and ANTHONY ANGELET, and the co-conspirator Anibal Carrion, a/k/a "Big Al" met at the Caribe Florist shop on 8th

Avenue, between 112 and 113 Streets, New York, New
York.

(Title 18, United States Code, Section 371.)

FOREMAN

WHITNEY NORTH SEYMOUR, JR.
United States Attorney

JUDGMENT AND COMMITMENT

JUDGMENT AND COMMITMENT (Rev. 12-66)

Cr. Form No. 25a

United States District Court
FOR THE

SOUTHERN DISTRICT OF NEW YORK

United States of America

v.

RAYMOND MARQUEL

No. 69 Cr 470

S.D.N.Y.

FILED
U.S. DISTRICT COURT

MAY 20 10 29 AM '71

On this 27th day of October, 1969 RAYMOND MARQUEL came the attorney for the government and the defendant appeared in person and by counsel

It is ADJUDGED that the defendant upon his plea of not guilty, and a verdict of guilty is a jury has been convicted of the offense of unlawfully, wilfully & knowingly conspiring to violate Title 18, United States Code, Section 371, a part of said conspiracy being that the defendant would travel in interstate commerce & use facilities in interstate commerce, including telephone, & cause such facilities to be used, with intent to carry on the unlawful activity of gambling, (Title 18, United States Code, Section 371)

as charged in count 2 and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is ADJUDGED that the defendant is guilty as charged and convicted.

It is ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on count 2 and \$100,000.00. The fine on count 2 is to be paid or the defendant is to be released unless the fine is paid or he is otherwise discharged according to law. It is further ordered that the defendant is to pay the cost of prosecution against him in this case.

The defendant is continued on his present bail until he posts bail pending appeal. If it is adjudged that in the sum of \$100,000.00; the bond pending appeal is to be a cash or surety bond in the amount of \$100,000.00, to be secured by depositing \$5,000.00 cash with the Clerk of this Court.

It Is ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

WALTER R. MAISTFIELD

United States District Judge.

State of New York recommends commitment to:

JOHN LIVINGSTON

Clerk.

22nd day of

1967

Deputy Clerk.

A TRUE COPY
RAYMOND F. BURGHARDT, Clerk

By

Deputy Clerk

"EXHIBIT A"

R.F.
2/21/74

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
:
5 UNITED STATES OF AMERICA :
:
6 vs. : 69 Cr. 420
:
7 RAYMOND MARQUEZ and :
8 RADAMES MAS, :
:
9 Defendants. :
:
-----X

11 Before:

12 HON. WALTER R. MANSFIELD,

13 District Judge.

14 New York, October 22, 1969,
15 1.00 p.m.

16 APPEARANCES:

17 ROBERT M. MORGENTHAU, ESQ.,
18 United States Attorney,
19 For the government,
20 By Richard A. Givens, Esq.,
21 Assistant United States Attorney.

22 ALBERT KRIEGER, ESQ.,
23 Attorney for Defendant Marquez.

24 ROBERT KASANOF, ESQ.,
25 Attorney for Defendant Mas.

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MR. GIVENS: Your Honor, I think, at least formally, there is still pending a motion based on alleged electronic surveillance.

THE COURT: Yes, and I did have a hearing on that. At least I heard Mr. Kasanof, and for the reasons I stated in open court, that motion is denied.

I do not recall the precise date but the minutes would show the date. At that time I explained what I proposed to do and I think there was some indication that you might want to file additional briefs.

I do not recall receiving additional papers so I will deny the motion for the reasons stated in open court.

MR. KRIEGER: No papers were filed, your Honor.

If your Honor please, I just would like the record to be clear that Mr. Kasanof appeared on that particular day sitting in for me, also, and Mr. Marquez' rights were represented by Mr. Kasanof at that time.

If your Honor please, at this time the defendant Marquez *would move* that pursuant

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3 to Rule 29 of the Federal Rules of Criminal
4 Procedure for an order that the verdict of the jury
5 be set aside and that the judgment of the Court be
6 entered on the grounds that the verdict of the jury
7 was returned contrary to law and against the weight
8 of the evidence.

9 In the alternative, your Honor, if you
10 deny that motion, the defendant would ask for a new
11 trial.

12 THE COURT: I deny the motion for
13 the reason that after reviewing the evidence in the
14 record in a light most favorable to the government,
15 I find that the jury was reasonably entitled to find
16 the defendant guilty on count 2 beyond a reasonable
17 doubt.

18 MR.KASANOF: If your Honor please,
19 I will make a similar motion for judgment of
20 acquittal and a motion for a new trial on the same
21 grounds as to the defendant Mas on each count of
22 the indictment.

23 THE COURT: That motion is denied for
24 the same reasons as to all three counts in the case
25 of the defendant Mas.

MR. GIVENS: Your Honor, the government

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2 has filed an affidavit with the Court and submitted
3 a copy to counsel for each defendant concerning the
4 facts that we deem are relevant in this instance.

5 Nevertheless, with your Honor's
6 permission I would like to expand, your Honor, on
7 that briefly.

8 In this case the government submits
9 that the defendant Marquez was definitely the boss
10 or overlord of the huge gambling operation involving,
11 according to the actual exhibits, more than \$80,000
12 per day.

13 Actually we believe that the amount was
14 much larger because those figures only concern the
15 so-called day numbers in Brooklyn or Manhattan, and
16 not the Yonkers or Roosevelt night numbers.

17 Also there were additional controllers
18 who were not in those figures.

19 So we would estimate that the actual
20 grand total might be approximately \$250,000 per day,
21 although we can only prove the \$80,000 from the
22 exhibits specifically.

23 Now we believe that there is no question
24 that Marquez was the boss of this.

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2 trial we think this is clear. The pictures show
3 him giving instructions. His fingerprints were
4 on one, apparently only one critical document,
5 and that was a toll sheet concerning which there
6 was a note signed by Firpo, your Honor, stating
7 that there was a dispute as to the money to be
8 paid, which was labeled "Attention Boss."

9 In addition to that it is absolutely
10 notorious in Harlem that this is Raymond Marquez'
11 operation, and has been for years. Reliable
12 informants of the FBI have stated that he received
13 his title to this property from so-called Anthony
14 Pastone Salerno, who was a member of the Cosa
15 Nostra and the Genovese family, and we conclude
16 that Mr. Marquez was acting on behalf of all the
17 organized crime in controlling this operation.

18 We feel that there is no question that
19 a large portion of these gross receipts were used
20 to bribe the local police; without such bribery
21 the operation could not continue for even one
22 day.

23 The gross profit is approximately 45
24 per cent, as indicated by the cut card in which odds
25 of 550 to 1 are paid on the bets where there is one

chance out of 999 to win.

This operation, according to reliable informants of the FBI, is continuing to this very day, and absolutely no cooperation of any kind or cessation of the activities has occurred, nor have the defendants come forward in any way to make a clean breast to the authorities.

Therefore concerning Marquez, we would submit this is the most serious possible violation by way of a conspiracy to commit illegal travel or aiding and abetting thereof, your Honor, for gambling purposes.

We submit that there could be no state of facts that we could imagine which could be more severe than this situation.

I will stop if your Honor wishes to consider Marquez before taking up the other defendant.

THE COURT: No. Whatever you are going to say with respect to both, please say it now.

MR. GIVENS: Now, Mr. Mas:

The government believes that the evidence shows that he was the acting chief executive,

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2 the president of the company, so to speak, of this
3 operation, and in his home a huge amount of
4 gambling records were seized -- \$12,800 was seized
5 from his car, and in an ordinary prosecution for
6 violation of this statute, he would have been the
7 sole defendant.

8 He was the one who was so far out
9 front among the executives of the gambling enterprise,
10 and except for the fact that Marquez, who was the
11 boss of Mas is before your Honor, we would be
12 arguing that Mas' case is one of the most serious
13 that could possibly arise.

14 The matter of deterrence is of great
15 importance here, your Honor, because the operation
16 is continuing. The others who are in are taking
17 the position that the government can go fly a
18 kite; they are not going to stop doing this or
19 not going to supply any information.

20 They will be looking very much, we
21 believe, to what happens to Mr. Mas in deciding
22 whether it is safe to continue in this activity.

23 They would feel, we think, that the
24 case of Marquez is different, but that they might
25 receive sanctions similar to Mas if they continue.

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Now there is also an aura here of intimidation of witnesses. Your Honor saw Miss Wozlonis testify. She told the jurors that she had been told by Mr. Marcone that she didn't have to talk to the FBI.

I think your Honor could find from her demeanor that she was absolutely terrified and falsely testified that she had not seen Marquez and Mas together.

Of course we know from the evidence at the trial that they were together all the time, out of her company, and I see no reason to believe that they wouldn't have been together in her company.

Mr. Marcone, your Honor could conclude, was a bag man for Marquez, who had this money with a note that said "Ray" secretly, and for reasons of course that he refused to tell.

We believe that Mr. Mas was necessarily fully aware of the manner in which this enterprise must be carried on and would be acting chief executive who must know of these bribes and intimidation to the same degree as Marquez.

So in conclusion we would submit that

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2 we would submit that Mas' case was the most serious
3 possible under this statute, and that Mascomes very
4 close to it.

5 THE COURT: Mr. Marquez, is there
6 any reason you know of why sentence should not
7 be imposed by the Court at this time?

8 MR. MARQUEZ: No, your Honor.

9 THE COURT: Before sentence is imposed
10 in your case is there anything you wish to say or
11 you wish counsel to say, or both of you wish to
12 say, with respect to sentences.

13 (Defendant Marquez confers with
14 counsel)

15 MR. KRIEGER: Mr. Marquez prefers
16 that I speak on his behalf, if your Honor please.

17 If your Honor please, there are
18 certain things which I am not going to dwell upon.
19 Those are the matters contained in the probation
20 report in so far as they deal with the general
21 background of the defendant.

22 I have had too much experience with
23 the Probation Department here to feel that they
24 have done anything else other than bring before the
25 Court a comparatively fair and accurate picture of

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2 this defendant's life up until the present time.

3 Of course, one cannot help be a little
4 bit uncertain about matters which may be contained
5 in the probation report which are the result of
6 "reliable informants," et cetera, because there we
7 just have hearsay pyramided upon hearsay and we
8 have a situation developing which is somewhat akin
9 to that which Mr. Givens has described, which is
10 Mr. Marquez before this Court to pay a penalty
11 for something which is basically predicated upon
12 an exaggerated reputation, totally unprovable,
13 according to Wigmore or according to much looser
14 standards.

15 He is brought before this Court and
16 Mr. Givens asks for the most severe penalty in
17 the light of a statute which ascribes penalties
18 for conduct considerably more serious than that
19 having to do with gambling.

20 I do not think, your Honor, that the
21 maximum penalty to be imposed under that section
22 deals with gambling or should be applied to gambling,
23 your Honor.

24 Further than that, your Honor, I think
25 that what is most important at the time of sentence,

and I say this most respectfully, is the man himself.

Mr. Givens has stated as facts before this Court many things which the Court must accept as having been proved at a trial. I beg to remind your Honor that these things which Mr. Givens has related to this Court are items which it took a jury almost two whole days to decide upon, and I think it is fair to comment in the light of what Mr. Givens has said that the verdict was not more, nor less than a compromise verdict that there was an insoluble difference of opinion in that jury room, and they finally got tired and came out with a verdict.

Your Honor, Mr. Marquez is not a child. It is true that in the course of his life he has had one or two or three brushes with the law -- nothing of any true seriousness in so far as any conviction is concerned.

He is a product of our slums, whether we like it or not.

He has fought his way out of the slums literally by tooth and nail. He lives comparatively well. He is devoted to his wife. He has seen to it that his son at least has the

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2 benefit of a college education.

3 A man who has seen to that, your Honor,
4 cannot be the type of individual for whom the
5 maximum punishment under a section of law such
6 as this should be prescribed.

7 Your Honor, many of the things that
8 Mr. Givens said I believe will be ignored by you in
9 deciding what sentence you are to impose here.
10 If those half truths, rumors, hearsay allegations
11 against the defendant, including that he is to be
12 held today vicariously liable for what people he
13 may be totally unfamiliar with are doing, are of
14 any concern to the Court or considered as important
15 by the Court.

16 At this time I would like the opportunity
17 of answering them. If they are unimportant or not
18 to be considered by the Court, I will just not
19 address myself to them and so take up your Honor's
20 time at this moment.

21 MR. GIVENS: Your Honor, before I
22 comment on that I think your Honor should look at
23 all the circumstances and not decide what weight,
24 if any, to give to any separate points. If Mr.
25 Krieger has information as to these, he should give

it without the benefit of an advisory decision by your Honor.

THE COURT: I am not going to get into extraneous information here. I sat through this trial and I believe I received enough information in the course of the trial out of the mouths of the witnesses and in the form of exhibits for me to be able to appraise the picture for purposes of sentence.

I also have before me a presentence report by the probation office which contains certain information as to the personal background of the defendant Marquez. I intend to read off certain portions of that to verify whether or not there are any inaccuracies in that report.

According to the report Maymond Marquez has the nickname Spanish Raymond, is 39 years old, born in New York City, and is a high school graduate.

Now the report shows that on December 5 1944, he was charged with juvenile delinquency as a habitual runaway and was placed on probation by the Manhattan Children's Court.

The report shows that he was charged

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3 with homicide on August 16, 1958, but that was
4 dismissed by the Felony Court.

5 On February 29, 1960, the report shows
6 that he received a suspended sentence.

7 March 30, 1960, he received a suspended
8 sentence from the gambling court, Manhattan,
9 for keeping a gambling premises in violation of
10 Section 974 of the Penal Law.

11 So far is there any inaccuracy in that
12 report, to your knowledge?

13 MR.KRIEGER: The last conviction to
14 which your Honor addressed himself, the conviction
15 under 974 of the Penal Law -- there was no conviction
16 there.

17 THE COURT: It says sentence suspended
18 here. That was on February 29, 1960. I mean the
19 offense was. And the sentence was March 30th of
20 1960, keeping a gambling premises, Section
21 974.

22 MR.KRIEGER: The defendant denies that,
23 your Honor.

24 THE COURT: The next shows that
25 there was a dismissal of some assault, bribery viola-
tion, administrative code charges.

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And then on August 28, 1963, the record shows that the defendant was convicted and sentenced in Special Sessions Court of Manhattan on a charge of felonious assault, reduced to assault third to one year, execution suspended, probation, one of the conditions of which was to make restitution.

The charge was that he struck one Hilda Craig, a barmaid, with his fist, and kicked her when she fell to the floor. She was treated at Sydenham Hospital, sustained three fractured ribs, confined to home for 26 days.

Defendant made restitution of \$682, \$150 for medical and \$532 for complainant's loss of wages. Probation terminated June 14, 1964.

Is that substantially accurate?

MR. KRIEGER: He was convicted of that assault, your Honor, and made restitution and was subsequently civilly, by this same Hilda -- whatever her last name was -- and had to pay 15 or 16 hundred dollars more.

THE COURT: Yes, that appears.

And then there are various charges which I will not review because they did not result in any

conviction. There are some where there is a
claim of dismissal here:

March 26, '65;

February, 1966;

September 29, 1966;

Disposition not known. Defendant claims
dismissal.

MR. KRIEGER: That is correct.

THE COURT: All right. Then on July 10,
1967, sentenced to 30 days to civil jail, \$250 fine,
contempt of court, Manhattan -- that is the New
York County Supreme Court, Part 30.

MR. KRIEGER: That is the Supreme Court,
your Honor. That in effect was a civil contempt.
Subsequently he was indicted on criminal contempt
arising out of the same transaction.

THE COURT: That is listed as pending.

Now according to these records, there
is the background about the family, wife and son,
is that right?

MR. KRIEGER: Yes, your Honor.

THE COURT: I think those are the
essential portions. The background information
is essentially personal in nature and I see no need

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2 to recite it in open court. That is as to his
3 wife and family life, physical condition, religious
4 interest, activities, residence.

5 You live in Great Neck, Long Island,
6 on a place known as Saddle Rock Estates, is that
7 right?

8 DEFENDANT MARQUEZ: Yes.

9 THE COURT: All right.

10 Now with respect to the defendant Mas,
11 I am not going to impose sentence until I hear
12 his case because the two were tried together and
13 they were rather closely tied together.

14 Mr. Mas, is there any reason you know
15 of why sentence should not be imposed in your case
16 at this time?

17 DEFENDANT MAS: No, sir.

18 THE COURT: Now is there anything you
19 wish to say in your own behalf or wish counsel to
20 say, or both of you want to say, with respect to
21 sentence before it is imposed.

22 MR. KASANOF: The defendant indicates
23 that he would like me to speak on his behalf.

24 There are some matters which are
25 before your Honor by virtue of Mr. Givens' affidavit.

1 of
2 which I would like to address myself to.

10

3 He sent an affidavit and memorandum
4 in which Mr. Givens calls for maximum sentence
5 and --

6 THE COURT: Well, as I said to you,
7 I am not going to get into issues with respect to
8 other activities on other occasions, if such
9 activities existed. If I do that we will have
10 another trial here that may go on for weeks with
11 respect to other matters.

12 I have the affidavit, but to the extent
13 that it refers to matters that were not the subject
14 of proof in the court or which cannot be the subject
15 of proof before me here now in some succinct,
16 indisputable form, I am not going to take those
17 into account in imposing sentence.

18 MR. KASANOF: I shall not advert to
19 them. I shall just briefly touch upon Mr. Givens'
20 closing quotation, which he seeks to invoke, your
21 Honor, of some resolution passed by the local Federal
22 Bar Association.

23 I am sure your Honor is familiar with
24 the results of the study conducted under the
25 committee which Judge Lombard shared, in which he

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2 takes a very different position.

3 THE COURT: I am familiar with it.
4 I think most judges are.

5 MR KASANOF: He takes a different
6 position on sentence.

7 Your Honor has from the testimony on
8 this trial a picture of the defendant Mas as a
9 human being. Your Honor has undoubtedly confirmed
10 in your probation report the fact that his father
11 is in his eighties. The man who was in the house
12 actually saw pictures, which gives you an idea of
13 the home, of the infant child. Your Honor knows
14 what his background was, his service in the navy,
15 his service in the army, an honorable discharge,
16 the fact that he served overseas briefly in combat,
17 the fact that he came out and worked for the Navy
18 Department, that he received -- and I have copies
19 of it -- worked for the navy, gave blood, was
20 commended.

21 I am addressing myself to Mas as a
22 man, because whatever Mr. Givens may say, I think
23 your Honor has one factor to consider, and that
24 is the deterrence of others.

25 We no longer give human sacrifices

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3 We are dealing with individuals. We are talking
4 about Mas, the man.

5 I say to your Honor in all sincerity --

6 I don't think your Honor would but if your Honor
7 could have Mas flogged, drawn, quartered and then,
8 as the English did for 300 years, fifty years from
9 now people would still be gambling.

10 Of course, these laws must be enforced,
11 but the idea, the implication that Draconian punish-
12 ment is going to prevent human beings from gambling
13 is a delusion, a delusion that started with the
14 attempt of the Romans to repress it, the English
15 to repress it.

16 But not talking about mother, father,
17 Mas, the man who served his country, your Honor,
18 but talking about the offense, this long-standing
19 social problem will go up in smoke if your Honor
20 imposes a punishment which is not justified by the
21 background of the human being who stands before
22 you, not justified by the particular evidence you
23 heard in court, but justified by some overall re-
24 quirement of the times.

25 I simply ask your Honor to punish
him in the proper proportion, and I am sure your

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2 Honor will.

3 There is nothing else have to say.

4 If there is anything in the report that your Honor
5 feels we might address ourselves to to be helpful,
6 I would be glad to do so and give your Honor the
7 background, as far as the criminal conduct of the
8 man is concerned, which indicates some slight
9 gambling violations and nothing else.

10 I ask your Honor ~~not for mercy~~ but
11 a fair and just, an appropriate sentence, your
12 Honor.

13 THE COURT: I also have a report
14 with respect to Radames Mas, and it concerns certain
15 basic information which I will check here with you
16 now:

17 That he resides at 4 Edge Hill Court,
18 Woodcliff Lake, New Jersey. That is the same address
19 that figured in the case?

20 MR. KASANOF: Yes.

21 THE COURT: 41 years of age, married,
22 two depends -- that is, his wife and his child.

23 MR. KASANOF: Yes.

24 If your Honor please, the defendant
25 also has an aged father.

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THE COURT: Yes, I remember the

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testimony on that.

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MR. KASANOF: He is solely dependent

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on him.

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THE COURT: Yes, I remember the testimony

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on that during the trial. I don't remember whether

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there was any testimony about his being solely

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dependent, but he lived in the house.

10

Now he has only one prior conviction.

11

That is May 24, 1958, gambling, New York Criminal

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Court, fined \$25.

13

MR. KASANOF: Yes.

14

THE COURT: I have two gambling

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cases since then, one in '65 and one in '68; both

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were dismissed. The same court.

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MR. KASANOF: Yes.

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THE COURT: Now as far as the personal

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information is concerned, there is background as to

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himself, wife, and family, home, neighborhood,

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interests, health and military service, and I don't

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think it is necessary for me to review those.

23

MR. KASANOF: There is one other

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matter:

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Going only to the record in this case,

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3 addressing myself to the record that Mr. Givens ascribed
4 to the defendant Mas again and again in pretrial
5 hearings and questions asked:

6 Did you go to the record and find the
7 name Mas?

8 Again and again, both the local police
9 and the FBI, who were able to give all sorts of
10 other names and testified that they had no pre-
11 existing record on Mas.

12 I think that somewhat undercuts -- I
13 think the evidence indicates undercuts -- the masterful
14 importance which was ascribed, your Honor, to the
15 defendant Mas.

16 THE COURT: Well, I have given this
17 matter a lot of thought since the trial and I have
18 reviewed in my mind the evidence as it unfolded at
19 the trial.

20 This was no small gambling operation.
21 This was a very substantial operation. It was
22 big time. I haven't the slightest doubt about
23 that, based upon the exhibits that were introduced
24 in the case. This was a very large illicit
25 gambling operation.

26 The defendant Mas had in his home extensive

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2 records of only a few days' time, as I recall it.

3 When he was arrested there was the \$12,500 in cash
4 in his car.
5

6 In the case of Marquez there was around
7 \$9000, as I recall, in the paper bag in the front
8 seat.

9 This type of operation cannot be treated
10 as a mere street corner small-time numbers game.
11 This is big gambling, illicit gambling, the very
12 type of gambling that tends to corrupt and breed
13 other types of illegal activities.

14 I think that the background of the
15 defendant Marquez indicates that he has engaged in
16 a lot of antisocial activity in the past, and even
17 making all due allowances for his upbringing, as
18 his counsel has indicated, I do not think that the
19 case calls for any leniency.

20 So the defendant Marquez will please
21 rise and I will impose sentence at this time.

22 (Defendant Marquez rose.)

23 THE COURT: In the case of the
24 defendant Marquez, the sentence of the Court is
25 that it is adjudged that he is to be committed
to the custody of the Attorney General or his authorized

representative for imprisonment pursuant to his conviction on count 2 of the indictment for a term of five years, and that he be fined in addition the sum of \$10,000, and that he be required to pay the cost of the prosecution in this case against him.

In the case of Mas, the defendant Mas, the judgment of the Court is that the defendant Mas is committed to the custody of the Attorney General or his duly authorized representative pursuant to his conviction on counts 1, 2 and 3 of the indictment for a period of three years on each count, to run concurrently, and that he be fined the sum of \$5000.

That is the judgment of the Court.

MR. KRIEGER: Will your Honor entertain an application for bail pending appeal? I have a notice of appeal in the courtroom and will file it immediately upon leaving court.

MR. GIVENS: Your Honor, may I be heard on that?

In the first place, I would take the same position for the record that I did earlier, ~~that after conviction the danger to society should~~

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2 be considered, and this is a continuing operation.
3 However, in the alternative, anticipating that
4 your Honor may deny that, as your Honor did at the
5 time of the verdict, I would like to request in
6 the alternative that bail pending appeal be con-
7 ditioned on, first, the docketing of the record
8 in this case within ten days, and, secondly, the
9 filing of the defendants' brief without 40 days there-
10 after.

11 Now the rules of the Court of Appeals
12 normally permit 40 days before the record is
13 docketed. However, in this case, daily copy of
14 the minutes was ordered; so these are already
15 prepared, and it should be done immediately. It is
16 day, for that matter, and since the public is, in
17 the government's view, severely prejudiced by the
18 continuance of these men on bail, I think it is a
19 reasonable requirement that they anticipate the
20 normal length of time that would be required to
21 transcribe the minutes by the court reporter.

22 MR. KRIEGER: If your Honor please, as
23 far as the transcript is concerned, I represent to
24 this Court that we have been pursuing the court
25 reporters for the portions of the transcript which

2 were not ordered on a daily basis, since the day
3 of the return of the jury verdict, and we still do
4 not have the complete transcript.

5 So so far as Mr. Givens' remarks are
6 concerned, they are not based upon a state of
7 facts which actually exists.

8 Secondly, I have represented Mr.
9 Marquez for a good ten years now. Mr. Marquez
10 wants me to handle this appeal. Your Honor knows
11 that I have a trial commitment before you beginning
12 in November. I remind your Honor that I am
13 presently committed to two other trials here prior
14 to my engagement before you.

15 To impose, your Honor, this kind of
16 time schedule upon the defendant Marquez would
17 deprive him of counsel of his choice because I could
18 not possibly do as Mr. Givens requires.

19 We will conform to the rule of the court,
20 your Honor. We will file a notice of appeal today.
21 Within 40 days we will docket the record and within
22 30 days after that we must file a brief. That is
23 a short enough time, your Honor.

24 THE COURT: I don't think that I
25 can decide this issue, Mr. Givens, on the basis of

2 preventive detention, which is what we are suggesting.
3 It seems to me even if the defendants are threats
4 we will have to think of bail in terms of whether
5 or not it will insure the availability of the
6 defendants at the time assuming there is
7 an affirmance.

8 However, I do think that one condition
9 can be that the appeal be diligently prosecuted.

10 MR. KRIEGER: Yes, your honor.

11 THE COURT: I don't see why you could
12 not within 60 days, 20 days for your docketing and
13 another 40 for your filing of your briefs -- what
14 is the present --

15 MR. KRIEGER: 70 days, your Honor.
16 40 days from the date of the filing of notice of
17 appeal and docketing the record, and 30 days there-
18 after to file the briefs.

19 THE COURT: Well, I will condition
20 it on 20 days for the filing or docketing, and the
21 usual 40 days for the filing of the briefs.

22 MR. KRIEGER: It is just the reverse,
23 your Honor. It is 40 days to docket the appeal, to
24 docket the record, and 30 days thereafter to file
25 the briefs. That is a total of 70 days from

ORDER
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x
UNITED STATES OF AMERICA,

-against-

RAYMOND MARQUEZ,

69 Cr. 420

Defendant.

- - - - -x
MANSFIELD, Circuit Judge:

Defendant's motion to correct our judgment dated October 22, 1969, is denied. The court's intent to impose a committed fine is confirmed by the provisions of the judgment itself. In addition we directed that he pay the cost of prosecution against him in the case.

It is so ordered.

Walter R. Mansfield, U.S.C. J.

Dated: May 17, 1974

NOTICE OF APPEAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

NOTICE OF APPEAL

RAYMOND MARQUEZ

69 Cr. 420LEWISBURG, PA.

Notice is hereby given that RAYMOND MARQUEZ, the defendant-appellant, above-named, hereby appeals to the United States District Court for the Second Circuit, from the order dated May 17, 1974 (Mansfield, J.) denying defendant's motion pursuant to Rule 36 for correction of his sentence.

Dated: New York, N. Y.
May 28, 1974

J. JEFFREY WEISENFELD
GOLDBERGER, FELDMAN & BREITBAUM
Attorneys for Defendant
Appellant, RAYMOND MARQUEZ
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